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Of Attorneys for Debtor

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

Westwind Apartments Inc,  
Debtor.

Case No. 20-30302-dwh7

PRECAUTIONARY OBJECTION TO  
NOTICE OF INTENT TO ABANDON  
FILED BY DEBTOR

Debtor Westwind Apartments Inc., by and through counsel, OBJECTS to Notice of Intent to Abandon (Docket #7) filed by Chapter 7 Trustee Kenneth S. Eiler (the "Trustee") and MOVES this Court for a Hearing on the matter unless the Trustee withdraws his Notice of Abandonment.

**BACKGROUND**

1. Debtor filed a Chapter 7 business bankruptcy liquidation case. Debtor has an interest in several residential leases pursuant to various oral agreements with the tenants at 127 SW Broadway, Portland, Oregon. Debtor also has a Master Lease Agreement for the above-mentioned property with Leon and Pamela Drennan.

2. Debtor desires that the residential leases and the Master Lease Agreement should be rejected as part of the Chapter 7 bankruptcy case because Debtor has no

resources to continue to deliver services to the tenants or to comply with the terms of the Master Lease Agreement.

3. This case was filed on January 29, 2020. On January 31, 2020, the Trustee filed a Notice of Intent to Abandon the bankruptcy estate's interest in the residential leases and in the Master Lease Agreement. The Meeting of Creditors pursuant to § 341(a) is scheduled for February 26, 2020.

### **GROUND FOR OBJECTION**

Debtor asserts as grounds for objection that the proper judicial process for the handling of the residential leases and the Master Lease Agreement should be the filing by the Trustee of a Motion to Reject and Abandon Unexpired Lease or Executory Contract (Local Bankruptcy Form 762.2).

This is a precautionary Objection. Debtor's counsel has communicated with the Trustee and the Trustee has stated that he intends to reject the leases after the meeting of creditors is held on February 26, 2020.

However, the Notice of Intent to Abandon requires a response within 16 days of its filed date or the leases will be deemed abandoned as of the 21<sup>st</sup> day after the filing of the Notice of Intent to Abandon. On the 21<sup>st</sup> day, the leases would no longer be part of the debtor's bankruptcy estate and the leases would revert to the Debtor. The 16-day deadline to respond is February 16, 2020. If no objection is filed by that date, then the leases are deemed abandoned on February 21, 2020, and are no longer part of the debtor's estate and hence the issue arises whether the leases may be rejected. This can be avoided by delaying the abandonment of the leases until the Trustee can withdraw his Notice of Intent to Abandon.

If the leases are rejected by the Trustee, then the Trustee should withdraw his Notice of Intent to Abandon thereby making this Objection moot.

WHEREFORE, Debtor respectfully requests that the Court set this matter for hearing.

DATED: February 11, 2020

VANDEN BOS & CHAPMAN, LLP

By: /s/Ann K. Chapman  
Ann K. Chapman, OSB #832833  
Of Attorneys for Creditor

In re: Westwind Apartments Inc.  
Chapter 7 Bankruptcy Case No: 20-30302-dwh7

**CERTIFICATE - TRUE COPY**

DATE: February 11, 2020

DOCUMENT: DEBTOR'S OBJECTION TO NOTICE OF INTENT TO ABANDON

I hereby certify that I prepared the foregoing copy of the foregoing named document and have carefully compared the same with the original thereof and it is a correct copy therefrom and of the whole thereof.

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing on:

Kenneth S. Eiler  
515 NW Saltzman Rd.  
PMB 810  
Portland, OR 97229

by mailing a copy of the above-named document to each of the above in a sealed envelope addressed to the same at his, her, or their last known address. Each envelope was deposited in the Post Office at Portland, Oregon, on the above date, postage prepaid.

and via email to: kenneth.eiler7@gmail.com

I hereby certify that the foregoing was served on all CM/ECF participants through the Court's Case Management/Electronic Case File system on the date set forth below.

DATED: February 11, 2020

VANDEN BOS & CHAPMAN, LLP

By: /s/Ann K. Chapman  
Ann K. Chapman, OSB #832833  
Of Attorneys for Creditor